

NOT TO BE INCLUDED  
IN BOUND VOLUMES

MPMc  
Washington, D.C.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BAKER DC, LLC  
Employer

and

Case 05-RC-135621

OPERATIVE PLASTERERS & CEMENT  
MASONS INTERNATIONAL ASSOCIATION,  
LOCAL 891  
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered an objection to an election held October 23, 2014, and the hearing officer's report recommending disposition of it.<sup>1</sup> The election was conducted pursuant to a Decision and Direction of Election. The tally of the ballots shows 15 for and 10 against the Petitioner, with one challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings<sup>2</sup> and recommendations,<sup>3</sup> and finds that a certification of representative should be issued.

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<sup>1</sup> Member Emanuel took no part in the consideration of this case.

<sup>2</sup> The Employer has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evident convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

<sup>3</sup> The Employer filed three objections to the conduct of the election. At issue in this proceeding are the Employer's exceptions to the hearing officer's recommendation that Employer Objection

## CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for the Operative Plasterers & Cement Masons International Association Local 891, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time cement masons and cement mason foremen employed by the Employer at its Washington, D.C. facility, excluding all laborers, carpenters, operators, drivers, helpers, welders, line and grade instrument men, office clerical employees, managerial employees, professional employees, guards, and supervisors as defined in the Act.

Dated, Washington, D.C., November 2, 2017

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| PHILIP A. MISCIMARRA, | CHAIRMAN |
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| MARK GASTON PEARCE, | MEMBER |
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| LAUREN McFERRAN, | MEMBER |
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(SEAL)

NATIONAL LABOR RELATIONS BOARD

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1 be overruled. We adopt the hearing officer's recommendation regarding Objection 1. As to Employer Objections 2 and 3, the Regional Director for Region 5 recommended that these objections be overruled without a hearing. In a separate proceeding, the Board has granted the Employer's Request for Review of the Regional Director's determination, but ultimately agreed with the Regional Director that the objections should be overruled. See *Baker DC*, Case 05–RC–135621 (2017) (not reported in Board volumes).

For the reasons stated in his dissenting opinion in *Baker DC*, Case 05–RC–135621 (2017) (not reported in Board volumes), Chairman Miscimarra believes that the Regional Director erred in overruling Employer Objection 2 without a hearing. Accordingly, he dissents from the issuance of a Certification of Representative.